

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94- 9201

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Barbara L. Walther, Judge of the 51st District Court of Tom Green County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. James R. Chapman, Jr.

to be filed in a District Court of Harris County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

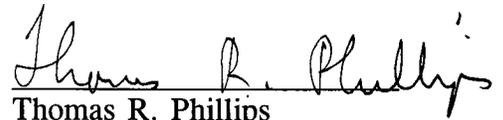
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 19th day of December, 1994.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9201, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 19 day of December, 1994.


Thomas R. Phillips
Chief Justice

COPY

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
JAMES R. CHAPMAN, JR.	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, James R. Chapman, Jr., (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Harris County, Texas. An officer may serve citation on Respondent by certified mail, return receipt requested at P.O. Box 2886, Spring, Harris County, Texas 77383-2886.

III.

In and around March, 1990, J.C. Benton (hereinafter called "Benton") hired Respondent to act as his trustee and to draft a will and initiate divorce proceedings on his behalf. At the time Benton hired Respondent, he paid him a \$10,000.00 retainer fee, which was to be billed by Respondent at the rate of \$100.00 per hour.

IV.

In his capacity as Benton's trustee, Respondent was authorized to receive monies and royalty checks on Benton's behalf. Between March, 1990, and December, 1991, Respondent received approximately \$82,000.00 in funds belonging to Benton.

V.

On or about July 24, 1990, the court signed temporary orders in the divorce proceeding pending between Benton and his wife, Uweda Benton. The orders provided that any monies received by either party were to be deposited into one account at Caldwell National Bank and that a full accounting was to be available to both parties. Respondent approved the order as to form on behalf of Benton. However, notwithstanding the language of the temporary orders, Respondent thereafter deposited monies received on behalf of Benton into his own trust account, and not into the account at Caldwell National Bank.

VI.

On or about December 6, 1991, Benton died. A will contest ensued, and on or about April 1, 1992, Sue Brinkman (hereinafter called "Brinkman") was appointed temporary administrator of Benton's estate. On or about May 6, 1992, Brinkman demanded that Respondent turn over to her all of Benton's assets still in his possession. In addition, Brinkman

demanded that Respondent produce an accounting showing transactions made by Respondent on Benton's behalf. Respondent thereafter requested and received an extension of time to provide the accounting, but still did not produce it. Brinkman thereafter made two additional demands for an accounting and for the assets, and was finally forced to file a lawsuit against Respondent on or about June 22, 1992, demanding an accounting.

VII.

Respondent was thereafter served with the citation in the lawsuit, and moved to quash it on the grounds that it identified him only as "James R. Chapman" instead of "James R. Chapman, Jr." Respondent's motion to quash resulted in a delay in his having to file an answer. Respondent finally filed an answer on or about September 3, 1992, which included a partial accounting and a tender of monies in the amount of \$23,943.00, which was purportedly the remaining funds belonging to Benton still in Respondent's possession. The accounting filed by Respondent proved to be inadequate in that it did not provide a complete or accurate record of monies received and expended by Respondent on Benton's behalf.

VIII.

On or about December 9, 1992, Respondent paid himself an additional \$5,851.00 in attorney's fees from monies belonging to Benton still in Respondent's possession. In all, Respondent paid himself a total of \$13,858.00 in attorney's fees before Benton's death, and paid himself an additional \$11,241.00 in attorney's fees after Benton died, for total attorney's fees in the amount approximately \$25,000.00. However, Respondent has failed to provide a complete and accurate accounting detailing legal services he performed on Benton's behalf which would entitle him to the attorney's fees.

IX.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., VI., VII., VIII. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.04(a), 1.14(b), 1.14(c), 3.02, 3.04(d) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

X.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Uweda Benton filing a complaint on or about August 20, 1993, and Sue Brinkman filing a complaint on or about September 14, 1993.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: (512) 463-1463
Telecopier: (512) 477-4607



E. LYNN RODRIGUEZ
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

u:\users\catherin\lynn\chapman.dp



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

December 20, 1994

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. James R. Chapman, Jr.
P.O. Box 2886
Spring, Texas 77383-2886

Dear Mr. McCormack and Mr. Chapman:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Barbara L. Walther, Judge of the 51st District Court, San Angelo, Texas to preside in

Commission for Lawyer Discipline v. James R. Chapman, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

December 20, 1994

The Honorable Katherine Tyra
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Ms. Tyra:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. James R. Chapman, Jr. and a copy of the Supreme Court's order appointing the Honorable Barbara L. Walther, Judge of the 51st District Court, San Angelo, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Barbara L. Walther
Mr. James R. Chapman, Jr.
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CRAIG ENOCH
ROSE SPECTOR

December 20, 1994

Honorable Barbara L. Walther
Judge, 51st District Court
112 W. Beauregard Avenue
San Angelo, Texas 76903-5835

Dear Judge Walther:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Chapman and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, four or five weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-6576) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-471-3911) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk